

# EXHIBIT E

1

2 UNITED STATES DISTRICT COURT  
3 EASTERN DISTRICT OF NEW YORK

4 -----X  
LAWRENCE I. FRIEDMANN,

5

PLAINTIFF,

6

7

-against-

Case No:  
12 CV 1307  
(LDW) (AKT)

8

9

RAYMOUR FURNITURE CO., INC., and  
LUCY GOLDSTEIN, individually,

10

DEFENDANTS.

11 -----X

12

DATE: February 13, 2013

13

TIME: 10:52 A.M.

14

15

16

DEPOSITION of the Defendant,

17

RAYMOUR FURNITURE CO., INC., by a Witness,

18

PATRICIA DELGENIO, taken by the Plaintiff,

19

pursuant to a 30(b)(6) and to the Federal

20

Rules of Civil Procedure, held at the

21

offices of The Harman Firm, PC, 200 West

22

57th Street, New York, New York 10019,

23

before Deborah Garzaniti, a Notary Public

24

of the State of New York.

25

1 P. DELGENIO

2 report to you?

3 A. Currently?

4 Q. Currently?

5 A. Five.

6 Q. At the time that this report  
7 from Mr. Roland to you was made, how many  
8 HR field specialists reported to you?

9 A. I am going to say two.

10 Q. What was reported to you?

11 A. Everyone who was put on a  
12 Performance Plan in that location, actually  
13 I would say in any of Chris' locations.  
14 She just made me aware, hey, the following  
15 people have been put on Performance Plan..

16 Q. Just so I am clear, you did not  
17 participate in placing anyone on a  
18 Performance Plan?

19 A. No.

20 Q. Did, to your knowledge,  
21 Ms. Roland participate in placing any  
22 people on a Performance Plan?

23 A. No.

24 Q. Do you have an understanding of  
25 how people would get placed on Performance

1 P. DELGENIO

2 Plans?

3 A. Yes.

4 Q. Can you describe that process?

5 A. Generally in the sales  
6 organization, which is very heavily metric  
7 driven, there is a weekly commission review  
8 where a leader in the store will sit down  
9 with an associate and measure their success  
10 or their performance, metrics against the  
11 standard expectation or the minimum  
12 expectation, and discuss whether their  
13 performance is either better than the  
14 expectation, not on par with the  
15 expectation.

16 If over a period of time an  
17 associate performs below expectation, the  
18 store leader will generally summarize the  
19 amount of time that the person has been  
20 performing below expectation and  
21 specifically to what extent, in what areas  
22 of their business and offer them assistance  
23 if they need it to hit the goals and a time  
24 frame in which they are expected to hit set  
25 goals.

1 P. DELGENIO

2 associate and of the store and if I have  
3 any questions related, I will ask them, so  
4 it would be accurate to say that I don't  
5 concern myself.

6 Q. But you don't actually read the  
7 Performance Plans?

8 A. I have. I can't say that I  
9 read every single one, but I have read  
10 Performance Improvement Plans.

11 Q. Do you recall reading any of  
12 Mr. Friedmann's Performance Improvement  
13 Plans?

14 A. I don't recall reviewing them  
15 at that time.

16 Q. Once you became aware that Mr.  
17 Friedmann had been placed on a Performance  
18 Improvement Plan, did you take any action  
19 at that time?

20 A. No.

21 Q. Did you investigate the Plan or  
22 why he had been put on the Plan?

23 A. It is my recollection that I  
24 worked with Christine Roland and my  
25 recollection is that it was her assertion

1 P. DELGENIO

2 that the Plan seemed standard.

3 Q. Could you elaborate on what you  
4 mean by that, when you say that the Plan  
5 seemed standard?

6 A. Yes. As I previously  
7 described, Plans generally say this is your  
8 performance, measure it against the  
9 expectation, here is the difference between  
10 the two, here is where you need to go and  
11 how to get there. It is my recollection  
12 that Mr. Friedmann's Performance Plan was  
13 very much in the line of that standard type  
14 Performance Plan.

15 Q. Do you know if Ms. Roland would  
16 have participated in the decision to place  
17 Mr. Friedmann on a Performance Plan?

18 A. She would not have.

19 Q. She would not have?

20 A. She would not have, unless the  
21 leadership team had questions about it.

22 Q. When you say "the leadership  
23 team," who are you referring to?

24 A. Any store leaders, store  
25 manager, showroom managers.

1 P. DELGENIO

2 Q. Can you describe the nature of  
3 those updates?

4 A. My updates would of come  
5 through Chris Roland and my recollection is  
6 that Mr. Friedmann was given the  
7 opportunity to interview at another  
8 location and that there wasn't a tremendous  
9 interest on either side at that location,  
10 so Mr. Friedmann remained in the Garden  
11 City location.

12 Q. When you say "there wasn't a  
13 tremendous interest on either side," what  
14 do you mean?

15 A. My recollection is that, and  
16 this is my recollection through Chris  
17 Roland, however many years ago, but my  
18 recollection is that when Mr. Friedmann was  
19 offered the opportunity to interview at  
20 Carle Place, he was not excited about it.  
21 That's the best way that I can capture it.

22 Q. Do you know why Mr. Friedmann  
23 was asked to interview at the Carle Place  
24 store?

25 A. I wasn't told specifically by

1 P. DELGENIO

2 store leadership, but very often we will  
3 look to find a location that can help make  
4 an associate successful and my  
5 understanding is that Mr. Friedmann started  
6 in the Carle Place location and the hope  
7 was in returning to the Carle Place  
8 location he would be better able to be  
9 successful.

10 Q. Just to recap, all of this was  
11 relayed to you by Ms. Roland?

12 A. Correct.

13 Q. You had no discussions with  
14 store leadership about this situation?

15 A. Not that I recall, no.

16 Q. Do you recall who the store  
17 leadership at his location would have been  
18 at the time?

19 A. Other than Lucy Goldstein?

20 Q. Other than Lucy Goldstein?

21 A. Oh, gosh. It would be a best  
22 guess who the showroom managers were. I  
23 would guess Kevin Sagendorf (phonetic), and  
24 I can't recall who the other one was at  
25 that period of time.



1 P. DELGENIO

2 location?

3 A. Yes.

4 Q. Under Ms. Lucy Goldstein's  
5 supervision?

6 A. Yes.

7 Q. Did you hear about Mr.  
8 Friedmann's employment again after that  
9 point?

10 A. When his employment was  
11 terminated is my next recollection of  
12 anything related to his status.

13 Q. How were you advised that he  
14 had been terminated?

15 A. It would have been by Chris  
16 Roland.

17 Q. Would it be fair to say -- I am  
18 sorry.

19 A. Go ahead.

20 Q. I didn't mean to interrupt you.

21 A. That's okay.

22 Q. You testified it would have  
23 been by Chris Roland?

24 A. Yes.

25 Q. Do you recall what Chris Roland

1 P. DELGENIO

2 told you?

3 A. Do I recall?

4 Q. What Chris Roland told you?

5 A. Yes, my -- again, this is a  
6 guess, not a recollection. My guess is  
7 that Chris Roland said Larry Friedmann  
8 didn't make his Performance Improvement  
9 Plan and they released him from service or  
10 they are going to release him from service.  
11 I am not sure if it was precisely before or  
12 after.

13 Q. Correct me if I am wrong, you  
14 did not play a role in that decision?

15 A. No.

16 Q. Is that standard practice in  
17 your position, to not play a role in that  
18 decision?

19 A. No. If I believe there is  
20 reason to insert myself into a  
21 decision-making process related to an  
22 associate, I will.

23 Q. Can you give me some examples  
24 of when you might consider inserting  
25 yourself into the process?

1 P. DELGENIO

2 Friedmann on several occasions just in the  
3 course of visiting stores?

4 A. Yes.

5 Q. At any point in those  
6 interactions with Mr. Friedmann, do you  
7 recall discussing any HR concerns with him?

8 A. No.

9 Q. Do you recall him raising any  
10 HR concerns with you?

11 A. No.

12 Q. Do you recall Ms. Roland ever  
13 discussing with you that Mr. Friedmann had  
14 raised any HR concerns?

15 A. I don't recall that, no.

16 Q. Prior to being made aware of  
17 the fact that Mr. Friedmann had been placed  
18 on a Performance Plan approximately six to  
19 eight weeks prior to his termination, were  
20 you aware of any performance issues with  
21 Mr. Friedmann's employment?

22 A. No.

23 Q. Did you, at any point, review  
24 Mr. Friedmann's history of performance with  
25 the company?

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2 myself in, ask more questions and try to  
3 gather information.

4 Q. Is it fair to say that you were  
5 not aware of the existence of any of those  
6 issues with respect to Mr. Friedmann's  
7 employment?

8 A. That's correct.

9 Q. Is it also fair to say that Mr.  
10 Friedmann was never offered the opportunity  
11 to meet with an HR representative during  
12 the last eight weeks of his employment?

13 A. No.

14 MS. CHICLACOS: Objection to  
15 the form. Go ahead.

16 A. We have an open door policy at  
17 Raymour & Flanigan. It is posted on our  
18 walls and an HR field person is in every  
19 location once a week, having the kinds of  
20 conversations that I spoke about before,  
21 hi, how are you? How is everything going?  
22 How is your day? You know, did you have a  
23 good weekend? Things of that nature. So  
24 there is at least a weekly opportunity for  
25 any associate to speak to their HR person

1 P. DELGENIO

2 face-to-face. So whether an opportunity  
3 was offered, I don't know, but the  
4 opportunity is very apparent.

5 Q. Would it have been Ms. Roland  
6 who would have been the HR representative  
7 visiting Mr. Friedmann's location?

8 A. Yes. I may have visited also  
9 during that time, it was part of my region,  
10 but I can't specifically tell you what  
11 weeks I was there.

12 Q. How are sales associates made  
13 aware of the open door policy that you just  
14 described?

15 A. Well, in the orientation  
16 process, it is discussed by their HR  
17 person, it is listed out in our Associate  
18 Handbook, there is a Workers 1 poster.  
19 Workers 1 is a 1-800 hotline number that  
20 they can call if they are not comfortable  
21 speaking to someone in the field. That  
22 goes to an anonymous service that is  
23 checked by our central services team in  
24 Syracuse. There is a sheet in the break  
25 room and in the sales office that has the

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2 contact information for every HR person in  
3 the market with their cell phone numbers,  
4 fax number, e-mail address and things like  
5 that. That is standard in every location  
6 that we have.

7 Q. Do you know when Mr. Friedmann  
8 first began working with Raymour &  
9 Flanigan?

10 A. Well, I know it was before my  
11 time. I guess it is 2005.

12 Q. Why do you believe it was 2005?

13 A. Because he was there before me  
14 and I started in 2006.

15 Q. Do you know anything about Mr.  
16 Friedmann's performance in 2005?

17 A. No.

18 Q. Do you know anything about Mr.  
19 Friedmann's performance in 2006?

20 A. No.

21 Q. Do you know anything about his  
22 performance in 2007?

23 A. No, not specifically to him,  
24 no. I didn't have any specific information  
25 presented to me about Mr. Friedmann's

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2 A. No. I mean training, anything  
3 in the HR, the trainings that HR provides.

4 Q. What types of trainings does HR  
5 provide?

6 A. HR provides new hire  
7 orientation. HR provides professional  
8 conduct and harassment awareness training.  
9 HR provides management training,  
10 communication, effective listening, on the  
11 role of the supervisor assertive influence,  
12 diversity and coaching. There are two or  
13 three coaching workshops that the HR team  
14 facilitates as part of the HR service that  
15 we provide to our leaders.

16 Q. Have you ever trained Ms. Lucy  
17 Goldstein?

18 A. Yes.

19 Q. Can you recall what training  
20 you provided Ms. Lucy Goldstein?

21 A. Yes. I recall at least one  
22 time where I facilitated a professional  
23 conduct and harassment awareness refresher  
24 training.

25 Q. Can you describe in summary

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2 form what that type of session would have  
3 consisted of?

4 A. Sure. Each year we refresh  
5 professional conduct and harassment  
6 awareness training for our managers and the  
7 training that I am thinking of now, Lucy  
8 was present, it was either her second or  
9 third time attending, and we talk about the  
10 laws related to discrimination on the basis  
11 of protected categories, age, race,  
12 disability, family, marital status, now  
13 sexual orientation, things of that matter.  
14 We talk about third-party harassment, we  
15 talk about quid pro quo, peer harassment,  
16 we talk about hostile working environment.  
17 Anything that would, I assume, customarily  
18 would be included in sexual conduct and  
19 sexual harassment workshop.

20 Q. Are store managers advised to  
21 reach out to Human Resources if they have  
22 questions?

23 A. Yes.

24 Q. How are they advised to do  
25 that?



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2 A. At the end of any HR workshop,  
3 if you have questions, if you have  
4 concerns, if there is anything that you are  
5 unsure about, feel freely to reach out to  
6 any member of our team. Are numbers are  
7 posted on the wall, as I stated previously.  
8 You know, when we are in your location,  
9 feel free to pull us aside, that is what we  
10 are here for.

11 Q. If a store manager received a  
12 complaint from an employee alleging some  
13 form of prohibited discrimination and  
14 didn't reach out to Human Resources, would  
15 that be a violation of company policy?

16 A. Yes.

17 Q. To your knowledge, did Mr.  
18 Friedmann ever complain to Ms. Goldstein  
19 regarding any issues concerning his  
20 employment during the time that he was  
21 employed there?

22 A. Not to my knowledge, no.

23 Q. To your knowledge, did  
24 Ms. Goldstein ever reach out to you or to  
25 any one of your colleagues in HR regarding

1 P. DELGENIO

2 question and do you stand by that  
3 instruction to not answer?

4 MS. CHICLACOS: Yes.

5 MR. ANDREWS: I would like to  
6 go off the record.

7 (Whereupon, an off-the-record  
8 discussion was held.)

9 Q. Are you generally familiar with  
10 the company's policies regarding employee  
11 disability?

12 A. Yes.

13 Q. Do you participate in  
14 formulating those policies?

15 A. I participate in the  
16 administration of those policies. The  
17 formulation I would say no.

18 Q. Do you know who formulates  
19 those policies?

20 A. I would assume that it is in  
21 conjunction with counsel as those policies  
22 are saved in the Associate Handbook, so the  
23 same process would apply.

24 Q. You used the word before, I  
25 don't want to misstate what you said, you

1 P. DELGENIO

2 stated before that you participate in the  
3 administration of those policies?

4 A. The administration of the  
5 disability policies?

6 Q. Yes.

7 A. Yes, or the oversight of the,  
8 you know, how they are carried out.

9 Q. I will use the word  
10 administration for now. That's okay. How  
11 are you trained in how to administer those  
12 policies?

13 A. How am I personally trained in  
14 how to administer those policies? Frankly,  
15 my years of experience in the HR field and  
16 all of the training and experience that I  
17 have had to date, conferring with counsel  
18 if I have questions or clarifications that  
19 need to be made to the policy, that I  
20 oversee and administer the following of the  
21 policy. So specific training, I can't tell  
22 you.

23 Q. And your supervisor, the  
24 overall head of human resources is Mr.?

25 A. McPeak.

1 P. DELGENIO

2 Q. McPeak. Does he provide you  
3 with input on the administration of those  
4 policies?

5 A. Yes.

6 Q. How does he do that?

7 A. If I was to confer with him  
8 that I needed additional support or  
9 resources to help me determine how to  
10 administer a policy or situation that I was  
11 specifically working with, I might reach  
12 out to Steve or to counsel to make sure  
13 that we are following through in the  
14 appropriate fashion.

15 Q. When you become aware one way  
16 or the other that an employee, such as a  
17 sales associate, is temporarily disabled,  
18 what is the process for dealing with that?

19 A. Temporarily disabled, meaning  
20 that they are out of work?

21 Q. Let's start with that.

22 A. An associate is out of work, I  
23 would determine the reason why, the amount  
24 of time that they need to be out of work,  
25 if they were eligible for any -- entitled

1 P. DELGENIO

2 leaves, family medical leaves and the  
3 paperwork associated, health care  
4 certifications associated with those leaves  
5 to determine the amount of leave that they  
6 are entitled to.

7 Q. If it is a situation where the  
8 employee is able to report to work, but is  
9 requesting some modification in his  
10 schedule, how is that handled?

11 A. They would let their manager  
12 know that they need an accommodation or a  
13 schedule adjustment based on whatever  
14 condition they are managing at the time.  
15 If the store manager has questions about  
16 being able to make those adjustments or  
17 accommodations, they reach out to the Human  
18 Resource team and we would help them  
19 determine what accommodations can and  
20 should be made.

21 Q. If a manager did not reach out  
22 to your team, would that be a violation of  
23 company policy?

24 A. Yes, they should reach out.  
25 They should reach out if they feel they are

1 P. DELGENIO

2 not able to make the accommodation or the  
3 adjustment. If they are able to make the  
4 accommodation or adjustment, then they do  
5 it.

6 Q. Is any type of documentation  
7 required of managers in those situations?

8 A. No, no specific documentation.

9 Q. If a manager feels that he or  
10 she is unable to make the adjustment or  
11 accommodation, is any documentation  
12 required of that?

13 A. No.

14 Q. So if a manager refused to  
15 accommodate an employee and didn't reach  
16 out to Human Resources, you would have no  
17 way to know that that request had been  
18 made?

19 A. Unless the associate themselves  
20 reached out to Human Resources. If the  
21 manager didn't tell us, we wouldn't know.  
22 If the associate didn't tell us, we  
23 wouldn't know.

24 Q. Is it fair to say that if Mr.  
25 Friedmann was having an issue with Ms.